

**Newfields Planning Board Meeting Minutes**  
**May 14, 2020**

**Attendance:** John Hayden, Jeff Feenstra, Mike Price, Bill Meserve, Town Planner Glenn Greenwood, Jamie Thompson, Jeff Couture, and Mike Todd.

**Guests:** Applicant Robert Peterson, Engineer Dan MacRitchie, Attorney John Cronin, Julie LaBranche, Bobby Kelly, RCCD Representative Gerald Lang, Larry Averill and Robin Marcotte.

Chairman John Hayden called the meeting to order at 7pm.

**Old Lee Rd -Lot Line Adjustment and 6-Lot Subdivision –Map 208 Lot 14 & 15-Continued Hearing**

Engineer Dan MacRitchie stated that they have submitted plans to RCCD for final review after receiving comments from them. They have received approval from the Fire Department. The updated proposed plan was reviewed.

Glenn said there are three things that need to be addressed by the Board. The conditional use permit and the waiver request for road length. Additionally, Gerry Lang from RCCD was available to answer questions and address concerns the Board might have.

Gerry Lang stated that he will be preparing a final review letter stating that all his comments and concerns have been addressed.

Bill Meserve is concerned with stormwater runoff and asked Gerry to explain what went into determining that the Town's stormwater ordinance had been met.

Gerry Lang said the stormwater regulations state that the development condition discharges for different frequency storm events shall not exceed the pre-development stormwater runoff. That is the process that is used to analyze the site before the development takes place. They look at after the development how much runoff is going to increase and how the excess runoff is going to be taken care. From a water quality standpoint, they look at potential pollutants from roadway runoff and how it is collected and treated so as not to add additional pollutants. Dan has looked at both the predevelopment and post development conditions and the runoff does meet the criteria for the use of the bioretention basin and two ponds, which will collect the extra runoff being generated by paved or cleared areas. The ponds detain the water and discharge it slowly enough that the pollutants are being settle out of the water before it is being discharged. The biomaterial in the bioretention pond filters the water. They looked at 2, 10, and 25-year storm events and there will be no increased runoff in post development.

Bill asked how road salt impacts water quality. Gerry replied that there isn't much that can be done. The only way to reduce road salt is to decrease the amount of salt being used. Bill asked if curbs or catch basins would help improve the quality of water. Gerry said not when it comes to salt.

Bill asked how water quality could be improved and if driveway and roof runoff were all taken into consideration. Additionally, how much maintenance the detention ponds need.

Gerry stated that driveway and roof runoff was considered in his calculations. The detention ponds should be monitored annually. Road salt and sediment end up in the ponds and maintenance will be needed to remove it. The area will also need to be mowed periodically and vegetation checked.

Dan showed where the detention ponds were located on the plan. There are two detention ponds on the roadway and a bioretention area in the middle of the cul-de-sac. The bioretention area (which is like a sand filter) is designed to direct water to the center of the cul-de-sac for treatment and recharge.

Bill asked who would pay for the maintenance of these areas. The cost should be placed on the developer. Otherwise, it will be an expense for the town that needs to be taken into consideration.

Glenn said maintenance is typically the responsibility of the applicant until the road is accepted by the Town and then the Town becomes responsible.

Bill asked if these areas were part of the lot with easements. Dan said that is correct, an easement agreement would be with the Town for the portion of the lot owned by a homeowner.

Bill asked if it was typical that the Town would have a treatment facility on private property or should it be deeded to the Town.

Glenn said drainage easements are typically shown as part of the description in deeds.

Mike Todd asked to see a cross section of the bioretention area. Dan brought the cross section up for viewing. The area will be seeded with grass and sloped toward the center of the cul-de-sac.

Mike Todd asked the standard lifetime of the filter media in the bioretention area. Dan said it was his understanding that the majority of the filtering is taking place through the loam. He asked Gerry if he knew.

Gerry said different types of media can be used. Wood chips or biomaterial will not last forever. It will breakdown over time. Based on the amount of runoff that is going into this bio filter. He guessed 5-10 years, or maybe longer depending on the type of filter media.

Mike Todd said that the Town could be looking at replacing this media every 5-10 years. Gerry replied that there is a certain amount of maintenance that needs to be done annually and they should get multiple years of use out of the bioretention area. He would have to do some research to find out exactly how long the media would last.

Mike Todd said that the replacement of the bioretention is a maintenance factor that the Town needs to be aware of.

Bill Meserve suggested getting prices on replacing and maintaining the stormwater in the cul-de-sac and the other two detention ponds because this could be an expensive maintenance requirement.

John Hayden asked Dan if he had any information for the Board on maintenance. Dan did not have information on maintenance and disagreed with the 5 to 10-year lifespan, for this specific system.

It would be approximately 700 cubic yards of media that would need to be replaced

Bill asked Gerry to obtain maintenance and replacement costs. The Town needs to know the expenses up front and if this is the best and most cost-effective way to treat stormwater.

Gerry will do some research and find out the replacement cost. He agreed with Dan that the amount of drainage is small compared to the size of the pond which may mean the life of the material may be longer.

John agreed that this is an expense that we should consider. It would be helpful to get replacement cost information.

Larry Averill was curious to know if RCCD and the developer had walked the land lately. He is concerned with the high-water table because there is standing water in his back yard. He is also concerned with the human interaction that may affect promoting wildlife in this sensitive area. What is the cost? Who has the oversight of the building being done and of these detention ponds? What does the builder gain vs. what the town gains?

Jamie said that these projects are inspected by engineers on behalf of the Town and verified that they have been completed correctly before being accepted by the Town.

Mike Price said that before a building permit is issued, a foundation inspection may be done to make sure it is in the proper place. Mike Todd added that a certified foundation plan may be an added condition of the project.

John Hayden said the oversight of the road and construction is done through the road agent for the roadway construction and it is reviewed by engineers working on behalf of the Town. In addition, the road would be bonded. If for some reason the applicant was unable to complete the road properly the money is there for the Town to complete the work.

Julie LaBranche asked if fencing or a guardrail would be required along the road and if the applicant could provide an operations and maintenance plan for the Board to see what is involved and the cost associated with the alteration of terrain and safety concerns with children and ponds.

Dan said the cul-de-sac does not pose a safety issue at all. Guardrails are not warranted at the ponds according to ASHTO (American Association of State Highway and Transportation Officials); it does not meet the criteria to be protected by guardrails. There will be a guardrail through the main wetland crossing, but they are not required for the wet ponds and cul-de-sac.

Dan said the DOT wetland permit was received in November 2019 for two wetland crossings. This is a minor impact project now with 6 lots, which does not require an alteration of terrain. The alteration of terrain is a stormwater management permit for projects that disturb more than 100k sf. of area. The AOT mirrors the subdivision regulations. The Town standards are more stringent.

John asked if the amount of disturbance for the road is less than 100,000 sf? Dan said yes, it is about 99,000sf.

Larry Averill hopes the town takes into consideration the effect of 100,000sf of area being disturbed and 6 lots.

Dan said the area of disturbance is for the paved length of road plus the shoulders and includes drainage and grading.

Bill asked where the staging area for construction will be, which is typically included in an alteration of terrain permit. Dan said that the developer will need to figure out how to make it work. It will be tight but can be done. The areas in and around the cistern can be used for stockpile.

Mike Todd said he didn't have much confidence that the developer can work with a staging area of 1,000 sf+-

Bill added that we are talking about a very environmentally sensitive area and the applicant is trying to engineer to maximize it and not take into consideration the environmental aspect of the property. There is high ground water, it will be a messy construction jobsite, and dewatering will be needed. Hopefully RCCD has looked at that for us and taken it into consideration. Is this development reasonable and can it be reasonably constructed? Bill would want a major note on the plan for limit of construction. A couple of incidents of siltation could kill the environment. In his opinion, the engineering is being stretched. Mike Todd agreed and added that there is no room for construction procedures in the field.

Gerry added that the alteration of terrain permit is only required if the area of disturbance exceeds 100,000 sf. When the permit is required it is to ensure the right things are being done to protect the environment. In his opinion, this is being done and it is the same that DES would be looking at if an AOT permit was required. This is a sensitive site and there are some key factors that need to be looked at during the construction phase of the project. It's not something that can't be done correctly; it will just take more time and perhaps more supervision for monitoring and inspecting.

Mike Todd asked what was expected of the Board tonight. Glenn stated that this is the first meeting following final engineering reviews by RCCD. It was his expectation that the board would vote on the request for road length waiver and the conditional use permit.

Bill said a lot of concerns have been brought up that need to be addressed. Concerns with the wetlands and stormwater control systems.

Mike Todd said has no problem granting relief with a waiver, but he is not convinced on the road length for an extra 400 feet. After getting through the wetlands the cul-de-sac could be at 600+ feet. He has no problem giving relief because of where the wetland is but it is against our policies. He is not sure if he is in favor of going to 900-1,000 feet.

Attorney John Cronin commented that the maintenance of the detention ponds will not be the responsibility of the Town until the Select Board determines whether they want to accept it. Often the Select Board requires a development agreement or covenant for a maintenance plan to be provided to protect the Town. If the detention ponds did not meet best management practices the town engineer would have commented on it. It is his understanding, that the detention ponds meet the regulations.

The two issues to be determined are the cul-de-sac length and wetland crossing. In Attorney Cronin's opinion, the intent of a cul-de-sac is for fire safety. It is common to see cul-de-sacs at 1,500 ft. Additionally, Newfields already has a cul-de-sac greater than this proposal, with many more homes. This development first came to the board with many more lots and it has been drastically reduced.

Attorney Cronin asked Gerry Lang if this was a suitable waiver to grant. Gerry said he has never been asked to weigh in on such a question which is a planning board decision.

Attorney Cronin asked what the purpose of the cul-de-sac length is. John Hayden replied that the board was not prepared to answer that question. It was a regulation that was voted on by the entire town and it is the guidance this board must follow.

Attorney Cronin mentioned again, the road length waiver granted for a past subdivision. John Hayden replied that the subdivision Attorney Cronin constantly compares to this one was not a lot that had

roadway cross a frontage lot and a significantly sensitive wetland to gain access to the property. This plan is completely different when it comes to comparisons to others.

Bill asked to look at lot 6 and asked what would prohibit the applicant from building that house prior to crossing the wetland. In our ordinance we talk about crossing a wetland for monetary purpose, (another lot to sell). It points to the environmental limits of this site. Meserve asked if there was a way to avoid the wetlands crossing. Is it reasonable to cross the wetlands just to gain access to some uplands? There are so many limitations there.

Bill asked if the Conservation Commission and Lamprey Rivers Advisory Committee commented on the newest plan and the stormwater treatment. Dan said the Conservation Commission was involved in the wetlands permitting process. Gove Environmental attended the Conservation Commission meetings in this regard. As far as Dan knows, the subdivision has been on the Conservation Commission's agenda for months and he assumes they are following and tracking the progress.

Bill noted that LRAC (Lamprey River Advisory Committee) needs to review the entire project. They did not review the plans that included all the stormwater treatment systems. He would like the plans to go back to them for review. Dan said he is not aware of any requirement to have the LRAC review the new plan. LRAC did participate in the wetland permitting process.

Gerry said he does not get involved with wetlands for review purposes. RCCD does have a wetland scientist on staff that does get involved if requested to. He is not sure if that has been done.

Glenn stated that RCCD has not been requested to do a review of the wetlands information that has been provided.

Bill Meserve is surprised that hasn't been done since this is a sensitive wetland area. Glenn added that the wetland information has been presented to DES for wetlands permit. It's not like it hasn't been looked at from an environmental standpoint for maintaining the integrity of the wetlands. That is exactly what DES does when they review a request for wetlands crossings. The Town has the right to ask for an additional review if they feel the information is misrepresenting, but that has never been discussed with this board on this project.

Bill feels the plan should have an additional wetland review.

Dan added that the entire set of plans as seen now was sent to the Wetland Bureau. He read the permit cover letter from DES which states, "It is a minor project because there are greater than 3,000 sf and less than 20,000 sf as the applicant has demonstrated or provided evidence that the proposal is the alternative with the least adverse impact to the areas and environment under the department's jurisdiction. Wetland connectivity will be maintained through the use of reinforced concrete covers as recommended by NH Fish and Game. Covers will be installed in the narrowest location of the wetland. Proposed layout has been revised to avoid impacts to vernal pools. Additionally, local regulations will require appropriate buffer signage to further protect existing vernal pools. Project is not located within or adjacent to a municipally designated prime wetland. The applicant has demonstrated by plan in example that each factor listed in NH Administrative Rule and bwt302.04a requirements for application evaluation have been considered in the design. A portion of the project falls within the designated river corridor of Lamprey River. Correspondence dated Dec 6, 2018 received by DES from LRAC sited multiple points of concern regarding the project including adverse potential impacts to the adjacent

conservation land, misrepresentation of potential impact to threatened rare and endangered plants and animals. On the same date, the Newfields Conservation Commission sent a letter echoing those same concerns. The NH Heritage Bureau indicated the presence of exemplary natural community plus threatened and endangered plants and vertebrae species. There was a thorough review done by all entities”.

Larry Averill asked where the vernal pools were found. At first there were none found and then after more investigation one was found. Dan indicated there is one vernal pool and when the original conservation plan was laid out with 12 lots, there was no development proposed in that area, it was to be left preserved.

According to Larry, there is direct impact to not only the Lamprey River but the Piscassic River. Water from the Piscassic River flows directly behind his house. The Piscassic River feeds the Lamprey River. Water runs yearly from this site through the proposed site. Water runs all the time.

Bobby Kelly asked how many wetland crossings were in the first project. Glenn noted the first project had only one wetland crossing for the roadway. The second wetland crossing that exists now is for the driveway for a lot that wasn't being proposed initially.

Julie LaBranche asked if the Town reviewed the full wetlands application that was submitted and approved. Glenn assumes the wetland application went to the Conservation Commission for review.

Mike Price asked if we had any recent notes from the Conservation Commission. Glenn was not aware of any recent notes but by law they would have seen the newest plan and notified when the wetlands permit was applied for. Mike Price feels it is important to hear back from the Conservation Commission on this latest set of plans.

Glenn commented that the Board still has issues in this review process, which involve communication and coordination with elements within the town itself which can be accomplished. And one board member feels the necessity to have the wetlands information reviewed by an outside consultant. If the Board is wishing to continue this hearing it will be up to the applicant because we are beyond the 65-day review and approval period. The applicant agreed to continue at the February 2020 hearing and then we had to postpone the April meeting due to COVID19.

Mike Price felt it would be irresponsible of the board not to have the wetlands independent review.

Jamie was not sure why we don't have faith in NHDES to provide an acceptable review. The DES received feedback and took into consideration information from the NH Heritage Bureau, LRAC and the Conservation Commission. In his opinion, we should move forward with a vote on the waiver for road length and the conditional use permit.

John said if we are going to consider having wetlands reviewed, what exactly are we reviewing. The wetlands permit was granted in November 2019. Bill said a wetlands expert would provide comments on the stormwater treatment system. In addition, abutters are indicating there are features on the site that may not be shown on the plan. He also wants to make sure the applicant has all the proper permitting done. John noted the board did receive comments from the Conservation Commission on this plan. Glenn agreed. This is the same plan as he reviewed in March 2020. Bill was concerned the Conservation Commission did not see the plan with the detention ponds.

Dan said the only difference with this plan is more detail as required by the RCCD review and comments, and the cleaning up of some technical issues that did not change the size or location of the stormwater systems. It is the same plan as presented in November 2019.

Larry Averill said he is also concerned with the 1,000 sf area to deal with construction on site and wanted to know how it would be done. Dan said it would involve construction sequencing; phasing materials as they come in. If the developer is told he must stay within those limits of work, then that is what must happen.

Larry replied that Dan has been professional, but his client has not been, and he has a hard time putting faith in him. John said it is not a guarantee that Mr. Peterson would be the developer of the parcel if we were to approve this subdivision. There are times when subdivisions are approved, sold and developed by someone else.

Attorney Cronin stated he takes exception to the remarks made that the applicant is not professional. He would advise that calling someone unprofessional at a public meeting is considered defamatory. It seems that people either don't like the applicant or don't want the development on this private property and coming up with reasons as to not trust the DES and needing additional information to consider this plan. Attorney Cronin said they are not going to extend the 65-day time limit to vote on the subdivision. The waivers and conditional use permit will be voted on as you are required to do. If you deny them, please state your factual findings for denial.

John said there may be conditions that need to be set forth in regard to potential costs for maintenance and construction.

Attorney Cronin said they would be receptive to a condition to provide a development agreement to make sure the town will not be responsible for any maintenance costs. Additionally, if the waiver is granted it may be a condition that the homes have a sprinkler system installed.

Glenn noted that with the applicant not being willing to extend the time limit for approval; there is a statutory provision that the planning board can apply to the Select Board to request an extension of up to 90 days to render a decision. Glenn read RSA 676:4f

Julie LaBranche made a comment that towns are typically notified when a wetlands permit is filed. Was this notification received? Glenn said yes, it was received in the town office and the planning board was notified of it as well as the Conservation Commission.

Gerry Lang signed off.

Julie LaBranche wanted to ask Gerry Lang if in his review of the plan he verified the square footage of the area being disturbed and if the staging area of 1,000sf would be sufficient. Glenn said he did represent that the area being disturbed was approximately 99,000 sf. and no alteration of terrain permit would be required. The best management practices being proposed are the same that would have been required if an alteration of terrain permit was needed. Glenn will contact Gerry and ask.

Julie added that the entire site is forested and there would be no place to park trucks on the site. The area will have to be cleared within that limit of disturbance as shown on the plan, for trucks to park. She doesn't see how a sequence of construction can happen when building a road and how a road can be built without going outside of the limits. There is going to be material storage, stockpiling of materials,

loam and sand, and large pieces of equipment that will be stored on site, including excavators when building the road.

Mike Price asked if there was a design that is sent out to be reviewed and if the construction sequence into account when they come up with an estimate of 100,000 sf. disturbed. Glenn did not want to speak for Gerry but said he assumes that he was aware of the limits that the right of way on this parcel involved and that construction sequencing could effectively be used to achieve the design. He will confirm with Gerry.

Julie said the Newfields stormwater regulations have specific infiltration and groundwater recharge and pollutant removal requirements. She suggests having Gerry Lang's final sign off letter state that all of those standards have been met, since the State will not be reviewing the design under the same parameters. Low salt applications.

The Board received correspondence from three abutting property owners and John read it into the record. See attachment.

It is Glenn's understanding that the Board would like more information on the cost for the stormwater system maintenance. John noted that Attorney Cronin said his client is willing to provide a maintenance agreement that would not burden the town with any expenses. Glenn added that Attorney Cronin stated the maintenance agreement would be effective only until the Town took acceptance of the road.

Glenn said if there are Board members that want additional information and to hear from Conservation Commission with respect to final comments on the plan and wetlands permit, he suggests asking the select board for additional time.

Julie had an additional comment. The developer owns the road until the Town accepts it, unless there is a HOA. When the road is accepted the Town will own it and all the infrastructure associated with it; the cistern, stormwater management systems, right of way and development envelope. Typically there is a bond that is posted to ensure the developer builds the road to the Town specifications. Once the road is built properly it goes to the Town for a vote of acceptance. The bond is not released until at least a year to insure there are no issues with the roadway. Jamie added that the Road Agent inspects and advises the Select Board if there are any issues to be approved or corrected before taking any possession.

Julie asked if there was a sediment erosion control plan submitted with the stormwater plan. Glenn replied he does not believe an erosion control plan was provided to RCCD for review. Bill noted the last sheet of the plan is an erosion and sediment control plan with details. . Dan added that the plan incorporates NH Fish and Game recommendations.

John said the Board needs to vote on the conditional use permit and waiver or act on the option of requesting an extension from the Select Board.

Jamie said he would bring the request for a 30-day extension on approval for the Select Board at their May 26, 2020 meeting. He will recommend to his fellow Selectmen to grant no more than 30 days extension. He is comfortable moving forward but there are some open items that need to be addressed with regard to the cost of the maintenance system.

Bill said we need to discuss the cost of sidewalks. Typically, money is placed in the sidewalk fund in lieu of building sidewalks. One other condition which needs to be discussed is the bonding of Old Lee Rd.

People are worried about the condition of Old Lee Rd deteriorating due to construction. This needs to be considered with all the activity that will be taking place on Old Lee Rd.

Glenn stated it is not uncommon to take a picture of the existing conditions of Old Lee Rd and if there is damage the Select Board has recourse with the developer.

Outstanding items are cost of maintenance and replacement of the stormwater system, staging effect of the 99,000sf and whether it is possible, verification from Conservation Commission that they have no final comments, verification from the LRAC that they had a chance to provide input on present plan, and cost for sidewalks and bonding for construction damage of Old Lee Rd.

Bill made a motion to ask the Selectmen for an extension of 30 days on the approval of this application. Mike Price seconded. All were in favor and the motion carried.

The meeting adjourned at 9:40pm.

Respectfully submitted,

Sue McKinnon